

Introduced by Senator Battin

February 17, 2005

An act to add Section 390.2 to the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

SB 431, as introduced, Battin. Electricity: repowering of facilities.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law provides that subject to applicable contractual terms, energy prices paid to nonutility power generators by an electrical corporation based on the commission's "short run avoided cost energy methodology" are required to be determined by specified law. Existing law authorizes any nonutility power generator using renewable fuels that entered into a contract with an electrical corporation specifying fixed energy prices for electrical output prior to December 31, 2001, to negotiate an additional 5 years of fixed energy payments at a level to be determined by the commission.

This bill would require the commission to develop and implement a program to foster the repowering of existing facilities for the generation of electricity from renewable energy resources by April 1, 2006, that imposes specified requirements on electrical corporations in connection with their contractual relations with owners of those facilities.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

The provisions of this bill would be part of the act and an order or other action of the commission would be required to implement its provisions. Because a violation of the bill's provisions or of an order

or decision of the commission would be a crime, this bill would impose a state-mandated local program by creating new crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 390.2 is added to the Public Utilities
2 Code, to read:
3 390.2. To foster the repowering of existing facilities for the
4 generation of electricity from renewable energy resources, the
5 commission shall, by April 1, 2006, develop and implement a
6 program that includes all of the following:
7 (a) Require an electrical corporation to offer the owner or
8 owners of an existing facility for the generation of electricity
9 from an eligible renewable energy resource, as defined in Section
10 399.12, that desire to repower the facility either of the following
11 contractual options:
12 (1) An amendment to the current contract for electricity
13 generated by the facility that includes terms and conditions that
14 encourage repowering and that in all material respects, are
15 neither more nor less favorable than those terms that exist under
16 the commission's generic standard offer contracts.
17 (2) A new or replacement contract for electricity generated by
18 the facility that includes terms and conditions that encourage
19 repowering and that, in all material respects, are neither more nor
20 less favorable than those terms that exist under the commission's
21 generic standard offer contracts.
22 (b) Requires an electrical corporation to allow the owner or
23 owners of an existing facility for the generation of electricity
24 from an eligible renewable energy resource, an option to extend
25 the term of an existing contract to purchase electricity generated
26 by the facility for up to 10 years, except that the extended term of

1 the amended contract may not exceed 15 years from the
2 commercial operation date of the repowered equipment.

3 (c) Requires an electrical corporation to employ reasonable
4 flexibility in the interpretation of existing contract terms to
5 maximize repowering, including the allowance of reasonable
6 adjustments to project size and location.

7 (d) Requires an electrical corporation to offer pricing options
8 to an owner or owners of an existing facility for the generation of
9 electricity from an eligible renewable energy resource to
10 encourage repowering, including commission-determined fixed
11 prices based upon either a forecast of short-run avoided costs, or
12 another benchmark determined by the commission to be more
13 just and reasonable, or resulting from a competitive bid, and
14 taking into account any added value that results from paying
15 lower prices for electricity than the electrical corporation is
16 currently paying for the historical deliveries under the existing
17 contract.

18 SEC. 2. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the
23 penalty for a crime or infraction, within the meaning of Section
24 17556 of the Government Code, or changes the definition of a
25 crime within the meaning of Section 6 of Article XIII B of the
26 California Constitution.